

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1767-IWD-E TCEQ ID: RN102180395 CASE NO.: 34884
RESPONDENT NAME: Delta Tubular Processing, L.P.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Delta Tubular Processing, 9393 Sheldon Road, at the intersection of Sheldon Road and U.S. Highway 90, and approximately four miles north of the City of Channelview, Harris County</p> <p>TYPE OF OPERATION: Industrial wastewater treatment system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Jim Bogar, Plant Manager, Delta Tubular Processing, L.P., 9393 Sheldon Road, Houston, Texas 77049 Mr. George J. Stewart, Vice President, Delta Tubular Processing, L.P., 9393 Sheldon Road, Houston, Texas 77049 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 19, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 23, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>Failed to comply with the permitted effluent limitations for ammonia nitrogen, total suspended solids, oil & grease, chemical oxygen demand, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003540000, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$18,200</p> <p>Total Deferred: \$3,640 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$14,560</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0003540000. The certification shall include detailed supporting documentation including receipts, and /or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0003540000, TX0087599



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES

Assigned
PCW

29-Oct-2007

30-Oct-2007

Screening

30-Oct-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Delta Tubular Processing, L.P.

Reg. Ent. Ref. No. RN102180395

Facility/Site Region 12-Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 34884

Docket No. 2007-1767-IWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 1

Order Type 1660

Enf. Coordinator Andrew Hunt

EC's Team Enforcement Team 1

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$7,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

190% Enhancement

Subtotals 2, 3, & 7 \$13,300

Notes

An enhancement is recommended due to one 1660 order, three written NOV's that are same or similar, and 31 months of self-reported effluent violations.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts \$1,164
Approx. Cost of Compliance \$10,000

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$20,300

OTHER FACTORS AS JUSTICE MAY REQUIRE

-10%

Adjustment -\$2,100

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended reduction in the penalty so that monthly self-reported effluent violations do not overly impact the penalty amount and to prevent double-enhancement of the penalty amount for the same violations that were self-reported.

Final Penalty Amount \$18,200

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$18,200

DEFERRAL

20%

Reduction

Adjustment -\$3,640

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$14,560

Screening Date 30-Oct-2007

Docket No. 2007-1767-IWD-E

PCW

Respondent Delta Tubular Processing, L.P.

Policy Revision 2 (September 2002)

Case ID No. 34884

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102180395

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	34	170%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 190%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

An enhancement is recommended due to one 1660 order, three written NOVs that are same or similar, and 31 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 190%

Screening Date 30-Oct-2007		Docket No. 2007-1767-IWD-E		PCW									
Respondent Delta Tubular Processing, L.P.		<i>Policy Revision 2 (September 2002)</i>											
Case ID No. 34884		<i>PCW Revision September 19, 2007</i>											
Reg. Ent. Reference No. RN102180395													
Media [Statute] Water Quality													
Enf. Coordinator Andrew Hunt													
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>											
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px;">Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003540000, Effluent Limitations and Monitoring Requirements No. 1</div>											
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to comply with the permitted effluent limitations for outfalls 001A, 003A, 004A, and 101A, as shown in the attached effluent table.</div>											
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>									
>> Environmental, Property and Human Health Matrix													
OR	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td></td> <th align="center" colspan="3">Harm</th> </tr> <tr> <td></td> <th align="center">Major</th> <th align="center">Moderate</th> <th align="center">Minor</th> </tr> </table>				Harm				Major	Moderate	Minor	Percent	<div style="border: 1px solid black; padding: 2px;">10%</div>
		Harm											
		Major	Moderate	Minor									
Release													
Actual	<div style="border: 1px solid black; padding: 2px;">X</div>												
	Potential	<div style="border: 1px solid black; padding: 2px;"></div>											
>> Programmatic Matrix													
Matrix Notes	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td></td> <th align="center">Major</th> <th align="center">Moderate</th> <th align="center">Minor</th> </tr> </table>				Major	Moderate	Minor	Percent	<div style="border: 1px solid black; padding: 2px;">0%</div>				
		Major	Moderate	Minor									
	Falsification												
<div style="border: 1px solid black; padding: 2px;"></div>													
A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. In addition, total suspended solids, chemical oxygen demand, and oil and grease were considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.													
Adjustment				<div style="border: 1px solid black; padding: 2px;">\$9,000</div>									
				<div style="border: 1px solid black; padding: 2px;">\$1,000</div>									
Violation Events													
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">7</div>	<div style="border: 1px solid black; padding: 2px;">274</div>	Number of violation days									
mark only one with an x	daily	<div style="border: 1px solid black; padding: 2px;"></div>		Violation Base Penalty	<div style="border: 1px solid black; padding: 2px;">\$7,000</div>								
	monthly	<div style="border: 1px solid black; padding: 2px;"></div>											
	quarterly	<div style="border: 1px solid black; padding: 2px;">X</div>											
	semiannual	<div style="border: 1px solid black; padding: 2px;"></div>											
	annual	<div style="border: 1px solid black; padding: 2px;"></div>											
	single event	<div style="border: 1px solid black; padding: 2px;"></div>											
Seven quarterly events are recommended.													
Economic Benefit (EB) for this violation			Statutory Limit Test										
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$1,164</div>	Violation Final Penalty Total		<div style="border: 1px solid black; padding: 2px;">\$18,200</div>								
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$18,200</div>									

Economic Benefit Worksheet**Respondent** Delta Tubular Processing, L.P.**Case ID No.** 34884**Reg. Ent. Reference No.** RN102180395**Media** Water Quality**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	1-Aug-2006	30-Mar-2008	1.7	\$55	\$1,109	\$1,164
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to evaluate causes of effluent excursions and to rehabilitate the Facility. Date Required is first month of non-compliance. Final Date is expected date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$10,000

TOTAL

\$1,164

EFFLUENT VIOLATION TABLE
Delta Tubular Processing, L.P.
TPDES Permit No. WQ0003540000
Docket No. 2007-1767-IWD-E

Months	NH-3 Single Grab max. conc.	NH-3 Daily ave. conc.	TSS Single Grab max. conc.	Oil & Grease Single Grab max. conc.	COD Single Grab max conc.	Flow Daily max. loading
	Limit = 10 mg/L	Limit = 3 mg/L	Limit = 50 mg/L	Limit = 15 mg/L	Limit = 200 mg/L	Limit = .0075 lbs/day
Outfall 001A						
1/31/2007	c	c	c	20	c	c
2/28/2007	c	c	58	c	c	c
3/31/2007	c	c	101	c	c	c
4/30/2007	c	c	51	c	c	c
5/31/2007	c	c	80	c	c	c
Outfall 003A						
1/31/2007	c	c	c	21	c	c
Outfall 004A						
1/31/2007	c	c	c	53	278	c
Outfall 101A						
8/31/2006	11.7	3.53	c	c	c	0.010
10/31/2006	11.8	5.72	c	c	c	c
4/30/2007	14	3.84	c	c	c	c
5/31/2007	c	c	c	c	c	0.014
6/30/2007	c	c	c	c	c	0.010
7/31/2007	10.9	4.35	c	c	c	0.014

ave. = average

c = compliant

COD = chemical oxygen demand

conc. = concentration

NH-3 = ammonia nitrogen

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per Liter

TSS = total suspended solids

Compliance History

Customer/Respondent/Owner-Operator: CN600370662 Delta Tubular Processing, L.P. Classification: AVERAGE Rating: 1.92
Regulated Entity: RN102180395 DELTA TUBULAR PROCESSING Classification: AVERAGE Site Rating: 2.42
ID Number(s): WASTEWATER PERMIT WQ0003540000
WASTEWATER PERMIT TPDES0087599
WASTEWATER PERMIT TX0087599
Location: Located at 9393 Sheldon Road, at the intersection of Rating Date: September 01 07
Sheldon Road and U.S. Highway 90, and approximately four Repeat Violator: NO
miles north of the City of Channelview, Harris County, Texas
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: October 30, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 30, 2002 to October 30, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrew Hunt Phone: 512-239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/22/2006

ADMINORDER 2003-1564-IWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with the permit limit for Oil & Grease daily maximum (mg/l) at Outfall 004A for the monitoring periods ending 08/31/2001 and 12/31/2001 and Oil & Grease daily maximum (mg/l) at Outfall 007A for the monitoring periods ending 09/30/2001 and 12/31/2001. These violations meet referral criteria.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 11/25/2002 (209834)
- 2 12/18/2002 (209837)
- 3 01/17/2003 (209840)
- 4 02/18/2003 (317301)
- 5 03/21/2003 (209808)
- 6 04/22/2003 (209813)
- 7 05/19/2003 (36003)
- 8 05/22/2003 (317304)
- 9 06/03/2003 (250052)
- 10 06/24/2003 (317305)
- 11 07/14/2003 (134119)
- 12 07/22/2003 (317307)
- 13 08/20/2003 (317308)

14	09/19/2003	(317309)
15	10/21/2003	(317310)
16	11/24/2003	(317311)
17	12/29/2003	(317312)
18	01/23/2004	(317313)
19	02/24/2004	(317302)
20	03/25/2004	(317303)
21	04/26/2004	(361293)
22	05/25/2004	(361294)
23	06/22/2004	(317306)
24	07/20/2004	(361295)
25	08/24/2004	(361296)
26	09/27/2004	(477087)
27	11/01/2004	(387105)
28	11/23/2004	(387106)
29	12/22/2004	(387107)
30	01/20/2005	(387108)
31	02/08/2005	(348957)
32	02/28/2005	(424881)
33	03/23/2005	(387104)
34	03/29/2005	(374938)
35	04/25/2005	(424882)
36	05/26/2005	(424883)
37	06/23/2005	(424884)
38	07/25/2005	(424885)
39	08/24/2005	(445520)
40	10/10/2005	(477088)
41	10/25/2005	(477089)
42	11/28/2005	(477090)
43	12/21/2005	(477092)
44	01/13/2006	(477093)
45	02/28/2006	(477085)
46	03/10/2006	(453076)
47	03/23/2006	(477086)
48	04/24/2006	(503823)
49	05/23/2006	(503824)
50	06/12/2006	(503825)
51	07/21/2006	(526189)
52	08/24/2006	(526190)
53	09/25/2006	(526191)
54	10/23/2006	(550487)
55	10/27/2006	(517380)
56	11/27/2006	(550488)
57	12/28/2006	(550489)
58	01/24/2007	(586740)
59	02/20/2007	(586735)
60	02/28/2007	(542219)
61	03/19/2007	(586736)
62	04/19/2007	(586737)
63	05/22/2007	(586738)
64	06/22/2007	(586739)
65	10/24/2007	(595136)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/31/2002 (209834)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2002 (209840)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (317304)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/16/2003 (36003)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with the permit effluent limits for chemical oxygen demand, oil & grease, and total suspended solids.

Date: 05/31/2003 (317305)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2003 (317309)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2003 (317310)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2003 (317311)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2004 (317302)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/29/2004 (317303)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2004 (361293)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2004 (361294)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2004 (317306)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2004 (361295)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2004 (361296)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2004 (387105)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2004 (387107)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2004 (387108)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 02/08/2005 (348957)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT 03540-000
 Description: Failure to comply with the permitted daily maximum flow limit of 0.0075 MGD at
 Outfall 101.
 Date: 02/28/2005 (387104)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2005 (477093)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2006 (477086)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/10/2006 (453076)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT Effluent Limitations, P. 2a, Provision 4
 Description: Failure to maintain compliance with the permitted effluent limits.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)
 Description: Failure to provide accurate flow measurements.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT Effluent Limitations, P. 2, Provision 1.
 PERMIT Effluent Limitations, P. 2c, Provision 1
 PERMIT Effluent Limitations, P. 2d, Provision 1
 Description: Failure to maintain compliance with the self-monitored effluent limitations.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.4
 Rqmt Prov: PERMIT Monitoring Requirements, P. 2a, No. 1.
 PERMIT Monitoring Requirements, P. 2c, No. 1.

Description: Failure to analyze for the parameters specified in the permit.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
 Rqmt Prov: PERMIT No. 1 on Pages 2, 2b, 2c, 2d, 2e, & 2f
 Description: Failure to collect effluent samples at the frequency specified in the permit.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to provide documentation of flow values for all of the external outfalls.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov:	PERMIT No. 1 on pages 2, 2b, 2c, 2d, 2e, & 2f.		
Description:	Failure to accurately complete the discharge monitoring reports (DMRs).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.6 30 TAC Chapter 319, SubChapter A 319.9(c)		
Description:	Failure to provide the required Quality Assurance/Quality Control (QA/QC) records during the investigation.		
Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Other Requirements, P. 14, Nos. 8-11.		
Description:	Failure to comply with the Other Permit Requirements.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(a)		
Description:	Failure to provide a National Institute of Standards and Technology (NIST) traceable thermometer in the sample storage refrigerator.		
Date:	03/31/2006 (503823)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2006 (503824)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2006 (526191)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2006 (550488)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2007 (586735)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2007 (586736)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007 (586737)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2007 (586738)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/31/2007 (586739)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2007		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DELTA TUBULAR PROCESSING,
L.P.
RN102180395

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1767-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Delta Tubular Processing, L.P. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an industrial wastewater treatment system located at 9393 Sheldon Road, at the intersection of Sheldon Road and U.S. Highway 90, and approximately four miles north of the City of Channelview in Harris County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 28, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eighteen Thousand Two Hundred Dollars (\$18,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fourteen Thousand Five Hundred Sixty Dollars (\$14,560) of the administrative penalty and Three Thousand Six Hundred Forty Dollars (\$3,640) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003540000, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 19, 2007, and shown in the following effluent table:

EFFLUENT VIOLATION TABLE						
Months	NH-3 Single Grab max. conc.	NH-3 Daily ave. conc.	TSS Single Grab max. conc.	Oil & Grease Single Grab max. conc.	COD Single Grab max. conc.	Flow Daily max. loading
	Limit = 10 mg/L	Limit = 3 mg/L	Limit = 50 mg/L	Limit = 15 mg/L	Limit = 200 mg/L	Limit = 0.0075 lbs/day
Outfall 001A						
1/31/2007	c	c	c	20	c	c
2/28/2007	c	c	58	c	c	c
3/31/2007	c	c	101	c	c	c
4/30/2007	c	c	51	c	c	c
5/31/2007	c	c	80	c	c	c
Outfall 003A						
1/31/2007	c	c	c	21	c	c
Outfall 004A						
1/31/2007	c	c	c	53	278	c
Outfall 101A						
8/31/2006	11.7	3.53	c	c	c	0.010
10/31/2006	11.8	5.72	c	c	c	c
4/30/2007	14	3.84	c	c	c	c
5/31/2007	c	c	c	c	c	0.014
6/30/2007	c	c	c	c	c	0.010
7/31/2007	10.9	4.35	c	c	c	0.014

ave. = average

c = compliant

COD = chemical oxygen demand

conc. = concentration

NH-3 = ammonia nitrogen

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per Liter

TSS = total suspended solids

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Delta Tubular Processing, L.P., Docket No. 2007-1767-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0003540000. The certification shall include detailed supporting documentation including receipts, and /or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office


Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/6/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

12/7/2007
Date

George J. Stewart
Name (Printed or typed)
Authorized Representative of
Delta Tubular Processing, L.P.

Vice President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

